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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/559,565	03/19/2008	Robert A Emmett	71028-008	3832
59582 7590 01/27/2010 DICKINSON WRIGHT PLLC 38525 WOODWARD AVENUE SUITE 2000 BLOOMFIELD HILLS, MI 48304-2970				
EXAMINER MCCALL, ERIC SCOTT				
ART UNIT 2855		PAPER NUMBER		
MAIL DATE 01/27/2010		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/559,565

Applicant(s)

EMMETT ET AL.

Examiner

Eric S. McCall

Art Unit

2855

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9-16 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 9-16 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/CD)
Paper No(s)/Mail Date Oct. 19, 2007
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: ____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

CYLINDER LIFT DETECTION DEVICE FOR
COMPRESSED AIR DISC BRAKES

FIRST OFFICE ACTION

DRAWINGS

The specification references drawings therein. However, no drawings have been set forth in the present application.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an

application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the Examiner, the Applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

CLAIMS

OBJECTIONS

Claim 9 is objected to because the claim fails to separate each claimed element of the cylinder lift detection device by a line indentation as per 37 CFR 1.75(i); MPEP 608.01(i).

35 U.S.C. § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 10 and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention because the reference to "the housing" in claim 10 is unclear since a housing has not been previously set forth.

35 U.S.C. § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 9-11, 13, and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Webberley (5,433,296).

With respect to claim 9, Webberley sets forth a cylinder lift detection device for compressed air disc brakes, comprising:

- a sensor (26) for the detection of the cylinder lift,
- a power source (the vehicle's electrical system) to supply the sensor with power,
- an activation device (68) connected between the sensor and the power source, with which the sensor can be switched on, and
- a function indicator (42 & 44) that is connected to the sensor, which indicates the proper or defective condition of the brake, and wherein the sensor (26) comprises a continuous sensor and the function indicator is a continuous indicator which is connected to the sensor and continuously indicates the lift of the cylinder.

With respect to claim 10, Webberley sets forth a casing in which the sensor is connected to the housing by a cable (Fig. 1).

With respect to claim 11, Webberley sets forth a pressure sensor as claimed because movement of the brake push rod (14) is the result of a pressure change (col. 4, lines 17-33).

With respect to claim 13, Webberley sets forth that the sensor (26) is attachable to a venting hole of the cylinder (Fig. 1 & col. 4, lines 25-32).

With respect to claim 16, Webberley sets forth an electronic processing unit in the casing, which is connected with the cable, the indicator and the activation device and which is operative to provide an evaluation of the signal originating in the sensor for the indicator (Fig. 2).

35 U.S.C. § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 12, 14, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Webberley (5,433,296).

With respect to claim 12, Webberley fails to set forth that the sensor (26) for detecting cylinder lift is that of an ultrasonic sensor as claimed.

However, it would have been obvious to one having ordinary skill in the art armed with said teaching to use an ultrasonic sensor as such a sensor.

The motivation being that the sensor of Webberley detects cylinder lift as the result of an air pressure change, and the use of an ultrasonic sensor to either detect displacement or to detect pressure is well known in the art because of the reliability and performance of such a sensor.

With respect to claim 14, Webberley sets forth that the indicator comprises an LED segment indicator that shows the lift but fails to explicitly set forth that the unit of measurement is in millimeters. Nonetheless, to use the measurement of millimeters would have been within the realm of one having ordinary skill in the art.

With respect to claim 15, the indicator as claimed therein is deemed as a functional equivalent as the indicator in claim 14.

CONTACT INFORMATION

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Eric S. McCall whose telephone number is (571) 272-2183.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Eric S. McCall/
Primary Examiner
Art Unit 2855